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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,161	10/15/2003	David Hall	4432 P	7917

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EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,161

Applicant(s)

HALL, DAVID

Examiner

Jerome W Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☒ Claim(s) 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

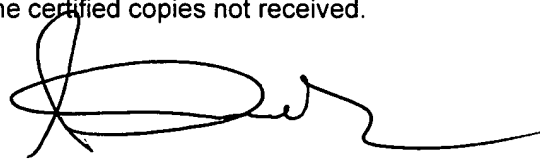
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.



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Claim 25 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulze Jr.

See fig. 6.

Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Daniels.

See Fig. 2 and Fig 4.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels.

The examiner notes that to manufacture the device to include 2, 4, 6 or even eight hinges equally space around the device of Daniels to multiple the foldable effect of

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Daniels would have been obvious to one of ordinary skill in the art for the purpose of allowing the device to achieve a smaller foldable storage configuration.

The examiner further notes that to space at last four of the hinges at 60°, 120°, 240°, and 300° is considered as arbitrary positions which configure a three sided section of the device, said three sided section being only slightly different in shape from the collapsible frame of Daniel which has four equally space sections when collapse. Absent any claimed criticality of the specifics of the shape of the three sided sections of applicants device the examiner considers the specifies of 60°, 120°, 240° and 300° obvious design choices in the art, only affecting the specific shape of the triangular sections.

In regard to claim 19 the examiner notes that carrying cases, having front feet and two rear wheels, a handle, shaped to fit the, item carried inside of said case and to include a restraining is old and well known in the art of carrying cases and suit cases.

Claims 7 –18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels in view of Nissen.

Daniels discloses the device of claim 7 substantially as claimed absent the feature of the device including foldable legs.

Nissen discloses a device comprising inwardly foldable legs.

Given the above teaching the examiner note that it would have been obvious to one of ordinary skill in the art to manufacture the device of Daniels wherein his leg members fold inwardly, to thereby enhance the portability of Daniels in view of inwardly foldable legs of a Nissen.

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As to the device including removable hinges the examiner notes that as broadly claimed the hinges of Daniels meet the claim language of removable by being separable (see Figs 6 and 9).

In regard to claim 21, the claim is no broad so as to read on a hinge as shown in Daniel Fig 6.

In regard to applicants claimed method of use in claims 15-16 the examiner considers the method as inherent in the process of using the device of Daniels modified.

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels in view of Sadow et al.

Daniels discloses the device of claim 22 substantially as claimed absent the feature of the obviousness of a carrying case and further a carrying case having a second handle. The examiner however notes that to include a second hand on the device of Daniels modified supra would have been obvious in view of the plurality of handle disclosed by Norstrom.

In regard to claim 23 note removable handle (44) of Sadow.

In regard to claim 24 the examiner notes that it would have been

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the handle member (42) of Taylor) (6160261).

Note the overall device of Hall.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

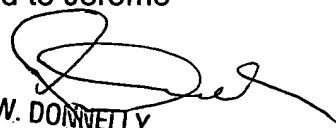
Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6648779 in view of Shulze Jr. The combination of the carrying case of Shulze and patent number 6648779 discloses the device of claims 1-18 of the instant invention.

Claims 19-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6648779 in view of Daniels and Nissen. The combination of claim 19-21 is obvious in view of Daniels and Nissen and patent number 6648779.

Claims 22-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6648779 in view of Daniels in view of Sadow et al. The combination of claims 19-021 is obvious in view of Daniels and Sadow et al and patent number 6648779 as claimed.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.


JEROME W. DONNELLY
PRIMARY EXAMINER
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